IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: - 21.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.317 of 2006

Kaleeshwaran ... Petitioner

vs.

1. The Commissioner of Police,
Coimbatore City,
Coimbatore 641 018.

2. The Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai.9.

3. The Additional Superintendent of
Central Prison, Coimbatore,
Coimbatore 641 018. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the first respondent in his proceedings in C.No.18/G/IS/2005, dated 16.7.2005, set aside the same as unlawful, direct the first respondent herein to cause production of the body and person of the petitioner's friend Somnath @ Santhosh, aged 21 years, son of Balasahib Pimbley, who is now confined in Central Prison at Coimbatore, before Court and set him at liberty.

WEB COPY

For Petitioner : Mrs.C.Deivasigamani
For Respondents : Mr. M.Babu Muthu Meeran,
Addl. Public Prosecutor.

https://hcservices.ecourts.gov.in/hcservices/

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the detention order, dated 16.07.2005, detaining his friend by name Somnath @ Santhosh as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu was received by the Government on 02.03.2006, remarks were called for on 03.03.2006 and the same were received from the Sponsoring Authority on 13.03.2006. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 15.03.2006. Finally, the Minister for Prohibition and Excise passed orders on 16.03.2006. However, the rejection letter was prepared only on 27.03.2006. The said letter was sent to the Central Prison for service on 28.03.2006 and served to the detenu on 30.03.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 16.03.2006, there is no reason for taking time till 27.03.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays on Saturday and Sunday, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

WEB COPY

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

https://hcservices.ecourts.gov.in/hcservices/

JI

To

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2. The Commissioner of Police,
Coimbatore.

3. The Superintendent,
Central Prison, Coimbatore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

1 cc To Mr.C.Deivasigamani, Advocate, SR.26026.

HCP. No.317 of 2006

TEJ(CO)
RVL 03.07.2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/